IN THE HIGH COURT OF JUDICATURE AT PATNA
CR. REV. No.584 of 2008
UNION OF INDIA THRU.COMMISSIONER(CUSTOMS)
Versus
STATE OF BIHAR & ANR
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6. 17.12.2008. I.A. No.1526 of 2008

This I.A. has been filed for staying the operation of the order dated 19.5.2008 and 23.5.2008 passed by Sessions Judge, Muzaffarpur in Customs Case No.60 of 2007 thereby the learned Sessions Judge has released the vehicle in favour of the opposite party no.2 bearing Registration No.BR-05 P-0582.

Heard the learned counsel for both the parties.

It appears from the record that the vehicle in question belongs to the opposite party no.2 it was seized by the customs official by carrying 136 kgms. of ganja. The opposite party no.2 filed the petition before the Sessions Judge for release of the vehicle in his favour. The learned Sessions Judge released the vehicle in his favour mainly on the basis of statement of the driver of the vehicle who disclosed that some one had hired the vehicle and loaded the seized ganja and the owner of the vehicle had no knowledge of the same. The other ground is that prior to the date and time of seizure of vehicle along with the ganja, the opposite party no.2 had filed a case against the driver.

In course of submission, the learned counsel for the petitioner submitted that in view of the decision of Supreme Court reported in 2005(9)SCC 313, (Union of India vrs. Dinesh Kumar Verma) release of vehicle seized in connection with N.D.P.S. Case is

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not proper as it requires for confiscation.

The above decision of the Supreme Court along with provision of N.D.P.S. Act have been considered by this Court in a case reported in 2008(4) BBCJ 517 (Union of India through CRPF vrs. Union of India through Central Excise Department). In paragraph-8, it has been held as follows :

> "8. There are catena of decisions including decision referred to above by the petitioner that in spite of provisions of confiscation made in N.D.P.S. Act the court can pass interim order for release of the vehicles under section 451 or 457 of Cr.P.C. However, it depends upon nature of case as well facts and circumstances. The case in hand appears to be serious in nature. The CRPF personnels in garb of uniform used department's vehicles for smuggling of contraband ganja in huge quantity. The case is of the year 1995 and trial is going on. The vehicles being used in commission of crime are naturally required during trial and also after end of trial for confiscation. Therefore, at this stage release of vehicles would not be proper."

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Thus, it is quite clear that the release of vehicle in N.D.P.S. case is not a routine matter. It depends upon nature of case. In this

case, the grounds mentioned in the impugned order are quite sufficient to justify release of the vehicle

In the facts and circumstances, the I.A. is hereby rejected. Consequently, Cr. Revision also stands dismissed.

(Ghanshyam Prasad)

N.H./

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